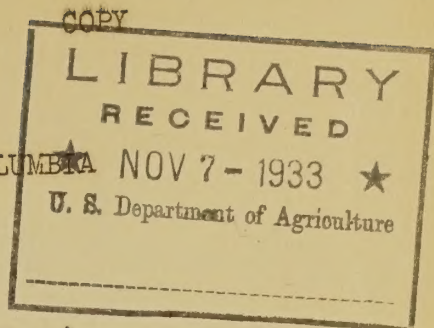


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C O P Y

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA



Capital City Milk Producers' Association, Inc., Plaintiff ,)
vs.) No. 56113
Henry A. Wallace, etc., , Defendant .) IN EQUITY

THE PRESIDENT OF THE UNITED STATES to

Henry A. Wallace, Secretary of Agriculture,

, Defendant.

GREETING: You are hereby commanded to appear before the Supreme Court of the District of Columbia to answer a bill of complaint (or petition) exhibited against you in the said Court in a suit in Equity by the above-named plaintiff, and to further do and receive what the said Court shall have considered in this behalf; and hereof fail not.

WITNESS, The Honorable Chief Justice of said Court, the 25th
day of August, A.D. 1933..

FRANK E. CUNNINGHAM, Clerk.

/s/ By H. B. Dertzbaugh, Assistant Clerk.

, Attorney.

NOTE. - The defendant is required to file his answer or other defense in the Clerk's office on or before the twentieth day after service, excluding the day thereof; otherwise, the bill may be taken pro confesso.

COPY

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

Holding An Equity Court

Capital City Milk Producers' Association,	:	
Incorporated ,	:	
In Care of Dodds & Burkinshaw,	:	
Shoreham Building,	:	
Washington, D. C.	:	
PLAINTIFF	::	
vs.	:	Equity No. 56113
Henry A. Wallace,	:	
The Secretary of Agriculture,	:	
Washington, D. C.	:	
DEFENDANT.	:	

RULE TO SHOW CAUSE

Upon consideration of the bill of complaint filed herein, it is this 25th day of August, 1933, ordered that the defendant, Henry A. Wallace, Secretary of Agriculture of the United States of America, show cause, if any he has, on or before ten o'clock A.M. on the 1st day of September, 1933, why he should not be enjoined and restrained as prayed in said bill of complaint; provided that a copy of this rule be served upon said defendant on or before three o'clock P.M. on 28th day of August, 1933.

By the Court:

A TRUE COPY
TEST:

FRANK E. CUNNINGHAM, Clerk

/s/ Daniel W. O'Donoghue
Justice.

By H. B. Dertzbaugh /s/
Asst. Clerk

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

Holding An Equity Court

Capital City Milk Producers' Association,
Incorporated,
In Care of Dodds & Burkinshaw,
Shoreham Building,
Washington, D. C.

PLAINTIFF

vs.

Henry A. Wallace,
The Secretary of Agriculture,
Washington, D. C.

DEFENDANT.

Equity No. 56113

BILL OF COMPLAINT

To the Supreme Court of the District of Columbia:

The plaintiff respectfully represents as follows:

1. That the Capital City Milk Producers' Association, Incorporated, the plaintiff herein, is a body corporate under the laws of the State of Pennsylvania, with its principal place of business at Mechanicsburg, Cumberland County, Pennsylvania, and is, and at all times mentioned in this bill of complaint has been, an association organized and operating for the benefit of its membership of dairy farmers, who number more than two thousand, and severally reside in and operate their respective dairy farms principally in the counties of Adams, Cumberland, Dauphin, Franklin, Lebanon, Perry and York, all in the state of Pennsylvania.

2. That the defendant, Henry A. Wallace, is the Secretary of Agriculture of the United States, a citizen of the United States and a resident of the District of Columbia, and is sued in this action in his official capacity as the Secretary of Agriculture of the United States.

3. That the plaintiff is engaged, at its said place of business, in conducting, as an association, divers of the business relationships and affairs of its members in and about the marketing of milk, milk products, and other products of their respective farms.

transactions of the nature hereinbefore described, has enjoyed and exercised its right to deal, without restraint or hindrance, in behalf of its divers members and for their business advantage, with such persons, associations and corporations as appeared expedient and for the best interests of its members, concerning the sale of dairy products, including milk and cream, and limited only by sanitary and other police regulations properly imposed by local law.

5. That plaintiff's associated members have paid, in the aggregate, large sums of money in the form of dues to plaintiff, expended and to be expended in its members' behalf and in furtherance of the corporate purposes of the association, and plaintiff has, being thus financed, created and developed an extensive and valuable good will toward it on the part of the divers persons, associations and corporations with whom it has dealt, and has established an extensive and valuable good will on the part of its many individual members, to the general benefit of its collective membership.

6. That plaintiff's undisturbed legal right to transact its said business freely and without illegal interference, restraint or duress is indispensable to its continued operation for its corporate purpose -- the business security and welfare of its individual members.

7. That on, to wit, May 12, 1933, an Act then passed by the Congress was approved as a law and a Statute of the United States, and which said Act was entitled as follows:

"An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extra-ordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes."

8. That thereafter, and on or about August 21, 1933, said defendant, acting under the pretended authority of the Statute herein above mentioned, and claiming and assuming to possess thereunder a lawful power to control and regulate the business of dealing in milk, generally, in the United States as a whole, including the area in which plaintiff and its members reside and transact business, did publish and issue a so-called

license, entitled "License for Milk-Philadelphia Milk Shed", which said so-called license, with its several exhibits thereunto attached, was and is in words and figures as set forth in "Exhibit A" hereunto attached, and which said "Exhibit A" is hereby made a part of this bill of complaint as fully as if herein set out.

9. That plaintiff is a "producer" as defined in said license.

10. That, as disclosed by the terms of said "Exhibit A", the said defendant, pretending as aforesaid to act under the authority of said Statute, has arbitrarily assumed to fix stated prices that other persons, associations or corporations, as the case may be, may lawfully pay to plaintiff, or to its several members, for any milk or cream purchased from plaintiff or from its several individual members, and, further, to fix a stated price at which such dairy products must be sold to consumers thereof; and, further, as shown by said "Exhibit A" hereunto attached, as aforesaid, said defendant assumes and pretends to the right to minutely control the entire business of purchasing and distributing such dairy products from plaintiff and its members, including the fixing of divers standards of quality and grade, and asserts, and pretends to have and lawfully possess such an arbitrary right and power under the terms of the Statute hereinabove mentioned--which pretended rights, powers and authority, purporting to be enforceable under the penal provisions of said Statute, are unlawfully and by the duress and fear occasioned by the said penal provisions, designed and intended to prevent all present and prospective customers of plaintiff and its several members from dealing with the plaintiff and its several members concerning such dairy products unless all of such dealings are controlled, managed, circumscribed and restricted in manner and degree as set forth in said purported license.

11. That such pretended power of control, direction and management over the business and affairs of those who now deal, and otherwise will deal, with the plaintiff and its several members so does, and will, restrict and circumscribe the dairy business of the plaintiff and its several members as to result in part, if not wholly, in the ruin and destruction thereof, and in the loss of the valuable good will of those persons with whom plaintiff and its members have heretofore dealt, and in the loss of the

valuable good will of plaintiff's several members.

12. That, among other things, said pretended license assumes to lawfully provide that purchases from plaintiff, and its several members, among others in the area affected, must purchase milk only on a so-called base-and-surplus plan, as described in said "Exhibit A", which said plan imposes unfair, unjust and ruinous conditions and limitations, both direct and comparative, upon the conduct of the plaintiff's said business and that of its several members; in that, in effect, it imposes arbitrary and unequal prices, and arbitrary and unequal limitations upon quantities that may be sold by plaintiff's several members, without regard to demand, or to the natural and ordinary needs of the area in which such products are produced and marketed.

13. That plaintiff is informed and advised that the Statute mentioned in Paragraph 7 of this bill of complaint is repugnant to and in violation of the provisions of the Constitution of the United States, and is invalid and void, particularly in that:

(A) Congress has no authority under the Constitution of the United States to enact legislation to enable the Secretary of Agriculture to fix prices which the customers of plaintiff and its members must pay to plaintiff and its members for milk and cream.

(B) Said Statute deprives the plaintiff and its members of liberty, property, and of the right to conduct its corporate business, without due process of law.

(C) Said Statute denies to plaintiff and its several members the equal protection of the laws.

(D) Said Statute provides for unreasonable searches and seizures of the property and effects of the plaintiff.

(E) Said Statute delegates legislative power to the Secretary of Agriculture.

(F) Said Statute denies to plaintiff and to its several members those certain rights retained by the people under the terms of Amendment IX to the Constitution of the United States.

(G) Said Statute provides for the taking of private property from the plaintiff and from its members without just compensation.

(H) Said Statute delegates judicial power to the Secretary of Agriculture.

(I) Said Statute interferes with the constitutional right of plaintiff and of its members to carry on their business and to freely contract in respect thereto.

(J) Said Statute attempts to make it a criminal offense for customers of the plaintiff and of its several members to purchase milk and cream from the plaintiff and its several members at prices satisfactory both to plaintiff, its several members, and their customers, and thereby, by duress, to prevent said customers from doing business with the plaintiff and its members.

(K) Said Statute in effect attempts to subject plaintiff and its members, in their business, to the arbitrary control and direction of the Secretary of Agriculture.

14. Plaintiff is advised and believes that the aforesaid purported license is unauthorized, invalid and void in that:

(A) The terms and conditions of said license do not tend to effectuate the policy of said statute as set forth therein.

(B) The terms and conditions of said purported license prevent and tend to prevent the effectuation of the said declared policy of said Statute, as set forth therein.

15. That plaintiff is informed and advised that said license is invalid, void, unauthorized, and in contravention of the provisions of the Constitution of the United States in that:

(A) Each and every one of the terms and conditions contained in said license, deprives the plaintiff of its liberty and of its property, without due process of law.

(B) The terms and conditions contained therein provide for unreasonable searches and seizures of the property, papers and effects of the plaintiff.

(C) Said license is designed to take private property of the plaintiff and of its members for public use without just compensation.

(D) The terms and conditions of said license purport to delegate powers and authority granted by Congress to the Secretary of Agri-

culture to other persons, contrary to the Constitution of the United States.

(E) Said license is discriminatory and void in that it fails to recognize the constitutional right of plaintiff to sell milk and cream directly to its customers, at a fair and reasonable price.

16. Plaintiff is informed and advised that it is the purpose and intent of the defendant, and of his agents, servants, employes and assistants, to attempt to enforce, as against this plaintiff, among others, the said Statute and all of the regulations, restrictions and rules purporting to have been promulgated under the authority thereof, and to attempt, in effect, under color of said Statute and of the said regulations, restrictions and rules, to force this plaintiff to give up and abandon its said business.

17. That plaintiff is informed and believes that it is the purpose, intent and threat of said defendant, and of his agents, servants, employes and assistants, to attempt to enforce said purported act in each and all of its terms and to attempt to enforce all regulations, restrictions and rules promulgated by defendant under color thereof, by assuming to revoke said pretended license as to the plaintiff's customers, among others, and by instigating criminal prosecutions against plaintiff's customers.

18. That plaintiff has no plain and adequate remedy at law and unless the defendant, his agents, servants, employes and assistants shall be restrained from attempting to enforce, as against plaintiff's customers and plaintiff's members' customers, said unconstitutional and void statute and said unconstitutional and void regulations, restrictions and rules, plaintiff's said business, and the business of its members, will be wholly and immediately destroyed, together with the right to engage therein, and that plaintiff and its members will thereby suffer great and irreparable loss, injury and damage.

WHEREFORE, THE PREMISES CONSIDERED, THE PLAINTIFF PRAYS:

FIRST. That this Honorable Court may cause its writ of subpoena to be issued, directed to the defendant, commanding him to appear and answer the allegations of this bill.

SECOND. That the said Statute be declared to be in violation of plaintiff's right in that it is not authorized by the Constitution of the United States, and is in violation thereof.

THIRD. That said purported license be declared to be in violation

of the rights of plaintiff and its members because not authorized under the Constitution of the United States, and in violation thereof.

FOURTH. That this Honorable Court issue a decree declaring said Statute to be null and void, and vacating and annulling said license.

FIFTH. That the defendant, Henry A. Wallace, and his assistants, deputies, agents and attorneys may be enjoined and restrained, both pending this suit and permanently at the final hearing thereof, from enforcing or attempting to enforce against this plaintiff's customers, and the customers of plaintiff's members, the said license, or any other order which he has issued or may hereafter issue under said unconstitutional statute.

SIXTH. And for such other and further relief as to this Honorable Court may seem meet and proper.

CAPITAL CITY MILK PRODUCERS ASSOCIATION

by:

Paul O. Sunday

A. Stewart Thomson

Agents of, and Members of Sales Committee
of, Plaintiff Corporation.

Nugent Dodds

930 Shoreham Bldg. Wash.D.C.

Neil Burkenshaw

930 Shoreham Bldg. Wash.D.C.

William H. Earnest
Harrisburg, Pa.

/s/

Attorneys for Plaintiff

DISTRICT OF COLUMBIA, SS:

PAUL O, SUNDAY and A. STEWART THOMSON, being duly sworn depose and say that they are respectively agents of, and members of the Sales Committee of, the Plaintiff Corporation in the foregoing bill of complaint, by them respectively subscribed, and that the matters and things contained in said bill of complaint are true.

Paul O. Sunday

A. Stewart Thomson

Subscribed and sworn to before me this 25th day of August, 1933.

Mary V. Judge

Notary Public, District of
Columbia

